

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re : SCOTT VINCENT VAN DYKE Debtor.	§ § § § §	Chapter 11 (Subchapter V) Case No.: 21-60052
---	-----------------------	---

EMERGENCY JOINT MOTION FOR CONTINUANCE OF CONFIRMATION HEARING

[Relates to Docket No. 70]

This motion seeks an order that may adversely affect you. If you oppose the motion, you should immediately contact the moving party to resolve the dispute. If you and the moving party cannot agree, you must file a response and send a copy to the moving party. You must file and serve your response within 21 days of the date this was served on you. Your response must state why the motion should not be granted. If you do not file a timely response, the relief may be granted without further notice to you. If you oppose the motion and have not reached an agreement, you must attend the hearing. Unless the parties agree otherwise, the court may consider evidence at the hearing and may decide the motion at the hearing. Represented parties should act through their attorney.

Emergency relief has been requested. If the Court considers the motion on an emergency basis, then you will have less than 21 days to answer. If you object to the requested relief or if you believe that the emergency consideration is not warranted, you should file an immediate response.

Eva Engelhart, as Chapter 7 Trustee of the Estate of Anglo-Dutch Petroleum International, Inc., (“Engelhart”) and Michael Noel (“Dr. Noel”) file this Joint Motion for Continuance of Confirmation Hearing with respect to the proposed Plan filed by the Debtor, Scott Van Dyke, and would respectfully show the Court the following:

1. On November 4, 2021, the confirmation hearing on the proposed Plan filed in this case was scheduled for Tuesday, December 8, 2021, with the deadline for

objecting to the proposed Plan set for the preceding Friday (December 3). [Docket No. 70]. Engelhart and Dr. Noel each hold a large unsecured claim against the Debtor, and both of them intend to object to confirmation of the proposed Plan.

2. On November 5, 2021, counsel for Engelhart emailed Debtor's counsel, attaching a draft 2004 request for examination and documents and requesting a conference with Debtor's counsel. On November 8, 2021, counsel for Engelhart and Debtor's counsel conferred regarding the schedule for producing the documents requested and a date for the examination following the document production. Counsel for Engelhart also filed a *Notice of Rule 2004 Examination* (Docket No. 75) requesting a number of documents relevant to the proposed Plan. Counsel for Dr. Noel then advised Debtor's counsel that he needed to review many of the same documents detailed in that *Notice of Rule 2004 Examination*.

3. Counsel for Engelhart, counsel for Noel, and Debtor's counsel have exchanged emails and had telephone conversations regarding the production of documents and scheduling of the examination. Although Debtor has stated that documents will start being produced, virtually none have yet been produced. All counsel have discussed the need to obtain the documents, have sufficient time to review the documents, and then schedule the examination of Debtor. No objections have been made by Debtor regarding any of the documents requested or the *Notice of Rule 2004 Examination*. The requested documents (and the inquiry related to those documents) are necessary because they are relevant to demonstrate that the proposed Plan (i) is not feasible, (ii) is not fair and equitable, and (iii) fails to comply with other requirements of

§1129 of the Bankruptcy Code.

4. To date, very few of the requested documents have been produced, and a date for the examination of the Debtor has still not been set. In light of the intervening Thanksgiving holidays, there are few business days within which to (i) obtain and review the requested documents, and then (ii) examine the Debtor, before the December 3rd objection deadline. This motion for continuance needs to be resolved by November 29 in order to prevent Engelhart and Dr. Noel from being required to object to the proposed Plan without adequate time to review the requested documents and to examine the Debtor before filing their objections to the Plan.

5. Separately, there are no impending deadlines, milestones, or other compelling reasons why the proposed Plan must be confirmed by December 8. As currently drafted, the Plan proposes a lengthy time-table within which the Debtor would (i) first obtain funds from new investors, (ii) then acquire new oil and gas leases, (iii) then drill new wells, and (iv) then pay a portion of the net revenue to creditors. A continuance of the confirmation hearing for 30–60 days would not materially impact the Plan as currently written. Finally, it should be noted that the Debtor himself had previously requested (and obtained) a two-month extension of time to file this Plan [see Docket Nos. 18 and 42].

6. Based upon the foregoing, Engelhart and Dr. Noel respectfully request that the confirmation hearing currently scheduled for December 8, 2021 be continued for at least 30 days, together with the deadline for filing objections to the Debtor's proposed Plan.

Respectfully submitted,

HAGANS MONTGOMERY HAGANS

/s/ William Fred Hagans

William Fred Hagans

Texas State Bar No. 08685500

fhagans@hagans.law

Carl D. Kulhanek, Jr.

Texas State Bar No. 11761850

ckulhanek@hagans.law

3200 Travis, Fourth Floor

Houston, Texas 77006

Telephone: 713-222-2700

Facsimile: 713-547-4950

- and -

NORTON ROSE FULBRIGHT US LLP

William R. Greendyke (SBT 08390450)

Julie Goodrich Harrison (SBT 20492434)

1301 McKinney Street, Suite 5100

Houston, Texas 77010-3095

Telephone: (713) 651-5151

Facsimile: (713) 651-5246

william.greendyke@nortonrosefulbright.com

julie.harrison@nortonrosefulbright.com

*ATTORNEYS FOR EVA ENGELHART, AS
CHAPTER 7 TRUSTEE OF THE ESTATE OF
ANGLO-DUTCH PETROLEUM
INTERNATIONAL, INC.*

/s/ David S. Elder

David S. Elder (SBT 06507700)

Foley & Lardner LLP

1000 Louisiana, Suite 2000

Houston, Texas 77002-2099

713-276-5750 (*direct dial*)

713-276-5555 (*fax*)

dselder@foley.com (*email*)

ATTORNEY FOR MICHAEL NOEL

CERTIFICATE OF CONFERENCE

On November 17, 2021, I telephoned Susan Tran, attorney the Debtor, in order to explain the reasons why a continuance was being requested. However, her law partner advised me that she was in process of leaving for the UT Bankruptcy Conference.

/s/ David S. Elder

David S. Elder

CERTIFICATE OF ACCURACY

The undersigned attorney for Michael Noel certifies that the facts on which this request for emergency hearing are based are accurate.

/s/ David S. Elder

David S. Elder

CERTIFICATE OF SERVICE

I hereby certify that on November 18, 2021, a true and correct copy of the foregoing Notice was served upon the counsel and parties of record electronically through the Bankruptcy Court's Electronic Case Filing System on those parties that have consented to such service.

/s/ Julie Harrison

Julie Harrison